

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AGENCE FRANCE PRESSE,	:
Plaintiff,	:
- against -	:
DANIEL MOREL,	:
Defendant and	:
Counterclaim-Plaintiff,	:
- against -	:
AGENCE FRANCE PRESSE,	:
Counterclaim-Defendant,	:
- against -	:
GETTY IMAGES (US), INC. et al.,	:
Third-Party Defendants.	:
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**DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO
BARBARA HOFFMAN'S
MOTION TO FIX AMOUNT OF AND ENFORCE CHARGING LIEN**

Ms. Hoffman now seeks an extension to move this Court for her attorneys' fees at an unknown later date. This request is in violation of the Federal Rules of Civil Procedure and this Court's scheduling order. Her request would require a second, redundant round of briefing from the parties and yet another determination from this Court. In addition, Ms. Hoffman admits that she did not keep the kind of time records that would be required for her to support her motion for fees. Accordingly, her motion regarding leave to file a supplemental declaration should be denied.

Rule 54(d) provides that a motion for attorney's fees "must ... be filed no later than 14 days after the entry of judgment," "[u]nless a statute or court order provides otherwise." Fed. R.

Civ. P. 54(d)(2)(B). Here, pursuant to the parties' joint request, the Court extended the deadline for filing motions for fees and costs to October 3, 2014. *See ECF 332, 336.* Both Mr. Morel and Ms. Hoffman were involved in setting that deadline. However, buried in the preliminary statement to her lien motion, Mr. Morel's former counsel now states "Hoffman, with permission of the Court, seeks leave to supplement her declaration in support of Morel's 54(d) costs application to include attorneys' fees once the Charging Lien is adjudicated." ECF 342 at 10.

This is not what the parties agreed to or what the Court ordered. To be sure, the Court accommodated the parties' repeated requests to schedule and reschedule briefing on the present fees and costs motion and gave the parties ample opportunity to submit the motion. Ms. Hoffman was actively involved in that scheduling process. What Ms. Hoffman now seeks is to have the Court and the parties go through the same process all over again once Ms. Hoffman determines whether, in her own opinion, she believes she has recovered enough to satisfy her fee demands from her arrangement and dispute with Mr. Morel. She and Mr. Morel have already had the opportunity to present their entire case for attorneys' fees to the Court by the agreed-upon and Court-ordered deadline.

Furthermore, Ms. Hoffman's submissions to date evidence that any further submission would be futile. On their face, her submissions fail to meet the minimum burdens: she has failed to submit complete cost records; she acknowledges that she did not maintain contemporaneous time records but has instead attempted to "reconstruct" her time spent based on a piece-meal review of emails and documents; portions of her time would certainly be duplicative of Mr. Baio's time during which they are both seeking fees; and her proposed rate is excessive. *See ECF 347 at ¶ 35-36.*

Accordingly, Defendants oppose Ms. Hoffman's request to supplement her declaration out of time as an unwarranted, but characteristic, violation of the Federal Rules and this Court's order, as well as a waste of judicial and party resources.

To the extent the Court is inclined to permit Ms. Hoffman to supplement her Declaration, Defendants respectfully request leave to respond to any supplementation.

Dated: October 31, 2014

Respectfully submitted,

By: /s/Joshua J. Kaufman

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